

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BILLY R. JONES,

Plaintiff,

vs.

RONALD BRYANT, et al.,

Defendants.

Case No. 3:17-CV-00572-RCJ-WGC

ORDER

Plaintiff moves this Court to dismiss his case under Fed. R. Civ. P. 41(a). (ECF No. 61.) Defendants do not oppose dismissal. (ECF No. 63.) Nevertheless, the statutory requirements of FRCP 41(a)(1)(A) are not met and dismissal under FRCP 41(a)(2) is not appropriate at this time. The Court therefore denies Plaintiff's motion without prejudice.

Under FRCP 41(a)(1)(A), a plaintiff may dismiss an action or a defendant without court order by "filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment[] or a stipulation of dismissal signed by all parties who have appeared." In the instant case, an answer has been filed by Defendants. (ECF No. 24.) Further, a notice of non-opposition is not equivalent to a signed stipulation of dismissal. Consequently FRCP 41(a)(1)(A) is not satisfied.

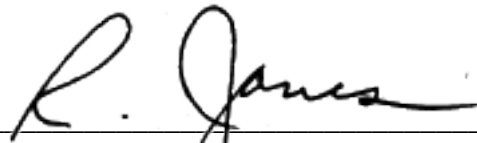
1 Where FRCP 41(a)(1)(A) does not apply, “an action may be dismissed at the plaintiff’s
2 request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2).
3 Here, Plaintiff requests the Court make dismissal conditional on “Defendants agree[ing] to
4 stipulated agreement sent to Defendants[’] attorney” (ECF No. 61 at 2.) This Court declines
5 to enter a conditional dismissal, especially where Defendants “ha[ve] no record of receiving a[ny]
6 proposed stipulated agreement[s].” (ECF No. 63 at 1.)

7 **CONCLUSION**

8 IT IS HEREBY ORDERED that Plaintiff’s Motion to Voluntarily Dismiss is DENIED
9 WITHOUT PREJUDICE.

10 IT IS SO ORDERED.

11 Dated July 8, 2020.

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14 ROBERT C. JONES
United States District Judge
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